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1 Stephen C. Ferlmann (SBN: 214881)
2 Chapter 7 Trustee
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8 TRUSTEE

9 IN THE UNITED STATES BANKRUPTCY COURT
10 EASTERN DISTRICT OF CALIFORNIA
11 (Sacramento Division)

12 In Re:

13 Edward James Coughlin

14 ssn:xxx-xx-5360

15 Debtor.

Case No: 09-33087-C-7

Chapter 7 Case

DC No, SCF -1

Date: June 23, 2010

Time: 9:30 a.m

Place: Courtroom No. 35, 6th Floor

17 MOTION FOR AUTHORITY TO SELL NON-EXEMPT EQUITY
18 IN PERSONAL PROPERTY TO DEBTOR

19 TO: The Honorable Christopher M. Klein, U.S Bankruptcy Judge:

20 The Chapter 7 Trustee, Stephen C. Ferlmann (the "Trustee") pursuant to 11 U.S.C
21 §363(b) and Federal Rule of Bankruptcy Procedure 6004, respectfully moves the Court to sell to
22 the Debtor the non-exempt equity in certain personal property in exchange for a payment of
23 \$12,000.00, and in support respectfully represents:

- 24 1. This Court has jurisdiction of this matter under 28 U.S.C § 1334 and 157(a).
25 2. On June 25, 2009 the Debtor filed a voluntary petition under Chapter 7 of the
26 Bankruptcy Code, in the above entitled court; Stephen C. Ferlmann is the duly appointed Trustee
27 in the case.
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1 3. Among the assets of the Chapter 7 bankruptcy estate is the Debtor's interest in the
2 following vehicles (the "Property"), to which the Debtor assigned the following fair market
3 values in his Bankruptcy Schedule B:

4 a. 1946 Indian Motorcycle -	\$ 5,500.00
5 b. 1947 Indian Motorcycle -	\$ 3,200.00
6 c. 1950 Mercury-	<u>\$ 7,000.00</u>

7 Total Value:	\$ 15,700.00
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8 4. The Trustee is informed and believes that said Property is unencumbered and that
9 the Debtor has possession of the titles thereto. The Debtor's bankruptcy Schedule D reflects no
10 lien or security interest claimed by any secured creditor in the Property.

11 5. The Debtor has asserted an exemption in the above referenced vehicles pursuant
12 to California Code of Civil Procedure ("CCP") §703.140 in the amount of \$15,700.00.

13 6. The Trustee had the Personal Property evaluated by an independent auctioneer
14 and arrived at the following values:

15 a. 1946 Indian Motorcycle	\$ 7,500.00
16 b. 1947 Indian Motorcycle	\$ 7,500.00
17 c. 1950 Mercury	<u>\$ 20,000.00</u>
Total value:	\$ 35,000.00

18 7. In the event the Property was sold via public auction, the usual and customary
19 auction fee is 15% of the gross sale amount. Should the Property sell for \$35,000 there would be
20 an auctioneer's fee of \$5,250. In addition, the Debtor is entitled to receive \$15,700 (his
21 exemption) from the sale proceeds leaving a net to the bankruptcy estate of approximately
22 \$14,050 (\$35,000 - \$5,250 - \$15,700=\$14,050).

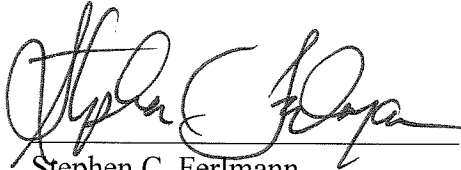
23 8. The Trustee and the Debtor agreed that the Debtor shall pay the bankruptcy estate
24 the total cash sum of \$12,000.00 (the "Purchase Amount") for the non-exempt equity in the
25 Personal Property. The parties agree that the Purchase Amount shall be non-exempt property of
26 the Debtor's bankruptcy estate. Upon payment of the Purchase Amount, the Debtor shall be
27 entitled to retain the Property and the Property shall cease being property of the bankruptcy
28 estate. Trustee acknowledges receiving the Purchase Amount from Debtor.

1 9. 11 U.S.C. § 363(b)(1) authorizes a trustee, after notice and hearing, to sell
2 property of the estate other than in the ordinary course of business.

3 10. The Trustee believes that the sale of the non-exempt equity in the Property to
4 the Debtor is in the best interests of the estate and should be approved by the Court. The
5 proposed equity sale is an equitable and expeditious manner of liquidating the Property by which
6 the bankruptcy estate will eliminate risks, costs, and delays of liquidating such assets by way of
7 public auction.

8 WHEREFORE, Trustee respectfully requests that the Court approve the equity sale
9 agreement, and authorize the Trustee to sell the non-exempt equity in the Property to the Debtor.

10 Dated: May 20, 2010

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13 Stephen C. Ferlmann
14 Chapter 7 Bankruptcy Trustee
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